

Corporate Standard

AS.12.003



**Queensland
Government**
Department of
**Primary Industries
and Fisheries**

Administrative Standard

Procurement and Management of Consultants

Scope

This Standard outlines the responsibilities and defines the roles of officers within DPI&F and *CorporateLink* and sets out in detail the procedures required for the engagement and management of consultants.

Policy

To ensure that consultants are engaged only when essential, that the best possible use is made of their services and that a consistent approach to their procurement is adopted throughout the department in accordance with this Standard and compliance with the State Purchasing Policy.

Definitions

Agreement is the written document signed by the department and the consultant, which outlines the terms and conditions under which both parties are to operate or perform.

Authorised Officers means those officers with authority delegated by the Director-General (DG) to execute agreements to engage persons as consultants, namely Deputy Directors-General (DDGs), Assistant Directors-General (ADGs) and Executive Directors (EDs).

Competitive Neutrality requires the removal of benefits that accrue to government businesses because of their government ownership. In other words, it is concerned with 'levelling out the playing field' in those areas where government competes with the private sector.

Consultant means an organisation or an individual engaged to provide specific, expert advice by the exercising of his or her own skills and judgement and where DPI&F does not exercise detailed control over the work performed. A consultant is not considered an employee.

Professional Indemnity Insurance is a policy of insurance held by consultants to protect the department should any advice or recommendation provided by the consultant cause any loss or damage to the department. Such expense is recoverable under the insurance policy.

Project Officer is the person nominated by the department in the agreement, or any other person substituted by the department. The Project Officer is primarily responsible for the management and review of the consultant and the consultancy arrangement.

Project is defined as the service detailed in the Terms of Reference or Specification, and may include agreed variations proposed by the consultant.

Public Liability Insurance is a policy of insurance effected by consultants to protect the department should the consultant cause injury, loss or damage to persons or property whilst performing the consultancy. Such expense is recoverable under the insurance policy.

Purchasing Officer/s referred to throughout this Corporate Standard mean those officers who have attained the required level of purchasing certification training.

Proposal or **Offer** means the response received from a prospective consultant to an Invitation to Offer.

Specification or Terms of Reference means a detailed description of the work to be performed by the consultant.

Responsibilities

DG is responsible for executing consultancy agreements up to and including a financial limit of \$750,000 and approving variations which may increase the value of the consultancy agreement up to this limit.

Authorised Officers (see DEFINITIONS above) are responsible for:

- prior approval to engage a consultant;
- executing consultancy agreements up to and including the financial limit of their delegation (namely \$375,000) and approving variations which may increase the value of the consultancy agreement up to this limit;
- granting departures from the competitive procurement process for the engagement of consultants; and
- determining the appropriate level of professional indemnity Insurance.

DDGs, ADGs, EDs, Regional Directors (RDs) and General Managers (GMs) are responsible for:

- nominating an officer to ensure that data in the CorporateLink managed [Consultancy Register](#) is accurate for their area of responsibility.
- ensuring that all entries in the Consultancy Register are:
 - reconciled on a monthly basis against expenditure recorded as 'consultancies' in the General Ledger;
 - reported to CorporateLink Finance for entry in the central register using the [Consultancies Register Monthly Reconciliation](#)

Officers nominated to maintain the Consultancy Register are responsible for:

- ensuring that any new consultants engaged appear on the register;
- ensuring that all details relating to each consultancy are included on the register;
- reconciling on a monthly basis General Ledger Consultancy Account Code 521301 with the Consultancy Register;

- ensuring that at the end of the consultancy, performance reports for consultancy agreements valued at over \$20,000 are completed by the Project Officer and forwarded to CorporateLink Finance.

CorporateLink Finance is responsible for:

- maintaining a central register of consultants engaged by the department, including copies of performance reports;
- on request, providing officers of the department or other government agencies with information on consultants engaged by the department;
- collating the monthly returns throughout the financial year for presentation in the department's Annual Report;
- reconciling the central register to the general ledger on a monthly basis.

Legal is responsible for registering all agreements and determining the appropriate form of agreement to be adopted for each consultancy.

The Project Officer is responsible for:

- advising all details relating to each consultancy to the officer nominated to maintain the consultancy register;
- documenting and arranging approval of any variation required to the consultancy;
- monitoring the performance of the consultant to ensure that the requirements of the agreement are met;
- supervision of the project;
- liaison with the consultant, overseeing performance and providing assistance where appropriate;
- maintenance of records and preparation of reports (including the Report on Performance of Consultants for consultancy agreements over \$20,000);
- sending a copy of the Report on Performance of Consultants to CorporateLink Finance;
- dealing with unsatisfactory performance by identifying any failure to achieve project objectives, and ensuring that the situation is corrected or that management is advised;
- ensuring that payment of the consultancy fees is charged to the correct General Ledger account code (521301) and payment approved only when the services required have been satisfactorily provided.

Purchasing Officers are responsible for ensuring that consultancies are arranged in accordance with Corporate Standard AS 12.002 - *Purchasing* and this Standard.

All staff arranging consultancies must establish a clearly demonstrated requirement before engaging a consultant and obtain **prior approval** to engage the consultant.

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Background

1. DETERMINING CONSULTANCY VERSUS CONTRACTOR SERVICES

The key characteristics of a consultant (which may be an individual or an organisation) include all of the following:

- Provides expert knowledge to analyse information, draw conclusions and make recommendations in the form of a written report, or an intellectual product for future action which the department must decide upon, or take a certain course of action.
- The nature of the output is not necessarily predictable, but tends to be open-ended and is more complex (for example a range of recommendations which the department must consider).
- Development of a new concept or process and where the department requires critical judgement to consider the recommended course of action.
- Engaged for a fixed period of time at an agreed rate of payment.
- Work which is not directly supervised by the department.

All of these characteristics **must** be present for a person to be engaged as a consultant.

Circumstances where all of the above characteristics are not met are known as Contractor Services and Departmental Standard [AS.12.006](#) applies. Refer to the Decision Table provided at [Appendix B](#) to assist in this determination.

NOTE: A supplier of services may refer to themselves as a 'consultant'. However, this does not mean that they will be defined as such for Queensland Government's purposes.

2. GOVERNMENT AND FORMER GOVERNMENT EMPLOYEES

The department must ensure all officers hired adhere to the department's [Code of Conduct](#). In addition, conflicts of interest by consultants should be guarded against at all stages.

2.1 Engaging Former Queensland Public Servants and Crown Employees

Former public servants or Crown employees may offer their services as consultants. The Project Officer must request a written declaration from prospective consultants stating whether they, or a related party, have previously received a Voluntary Early Retirement (VER) from a Queensland Government entity.

Where a former public servant or Crown employee is engaged as a consultant during the period of their severance benefit, part of the severance benefit may need to be repaid. When this occurs, the relevant DDG, ADG, ED, RD or GM, must be made aware of the situation and the required action determined, **prior** to making the decision to engage the consultant.

If **either party** become aware of such occurrence subsequent to the signing of an agreement, it must be brought to the immediate attention of the officer who signed the agreement. A clause to this effect is included in the department's standard Consultancy Agreement signed by the consultant.

Refer to Schedule A of the Public Service Commissioner Directives [10/05 \(Retrenchment\)](#) and [11/05 \(Voluntary Early Retirement\)](#).

NOTE: Invitations for consultancies must not be restricted to former public servants or Crown employees unless otherwise approved by the Director-General.

2.2 Engaging Commercialised Units in Government, Government Owned Corporations (GOCs) and/or Employees of Tertiary Institutions and Universities

GOCs and commercialised business units within departments that provide consultancy services to Government may be required to demonstrate their competitive neutrality when competing against offerors from the private sector i.e. they are functioning on the same basis as a private sector consultant. (Refer to the [National Competition Policy](#) issued by [Queensland Treasury](#))

Details of each GOC, including industry sector, shareholding Ministers, the type of GOC, and the date corporatised is available from [Queensland Treasury](#) (if required). When purchasing from a GOC refer to [AS.12.002](#) - Section 7 for further information.

In dealing with consultants from the tertiary education sector, initial dealings should be with the relevant commercial arm/s of the university or college. This practice promotes ethical and fair dealings and has the support of the university Vice-Chancellors and TAFE Directorate in Queensland. **The officer organising the purchase must be aware of whom they are engaging. For example, is it the university, or is it a individual working for the university? This is critical information when drafting the agreement..**

NOTE: If tertiary sector staff members offer as private consultants, then the normal competitive selection process applies.

3. PROFESSIONAL INDEMNITY AND PUBLIC LIABILITY INSURANCE

3.1 Professional Indemnity Insurance

Requirement

Professional Indemnity Insurance is **mandatory** for all Consultants engaged by the department. The amount of insurance required is to be approved by the relevant DDG, ADG or ED and the requirement to hold this insurance and the amount decided **must** be included in the Specification or Terms of Reference. As a guide for these Authorised Officers, the department requires a minimum professional indemnity insurance for consultancies of \$1M.

Amount

The fundamental principle in determining the appropriate amount of insurance required for each individual project is the likely magnitude or extent of any potential liability, **NOT** the result of a risk assessment (i.e. high or low) of an indemnity related problem arising.

NOTE: Professional Indemnity Insurance serves to protect the department when a problem arises and liability is incurred. At that stage whether the probability was high or low is immaterial.

The approved Professional Indemnity Insurance amount will vary depending upon the value of potential liability that may result from any negligent act, error or omission by the consultant and from which the department would incur a loss. Each individual

consultancy will be different and the assessment of the likely amount of any potential liability will vary from hundreds of thousands of dollars to many millions of dollars.

Some factors that should be considered in assessing the magnitude of any potential liability include:

- the nature of the consultancy and complexity of the tasks being undertaken;
- the amount of any loss and damage potentially suffered by the department, estimated on a worst case scenario taking into account:
 - departmental costs for any internal reworking of the task as well as the cost of any consequential loss suffered by the department (i.e. the cost of repairing any inappropriate development or damage caused to systems or other areas impacted upon as a result of implementing recommendations of the consultancy); and
 - claims by external parties (e.g. the business sector and/or the wider community) who have suffered a loss as a consequence of the department implementing recommendations of the consultancy.

NOTE: The legal issues concerning potential loss and damage may be discussed with Legal, but the decision on the amount of the Professional Indemnity Insurance ultimately lies with the relevant DDG, ADG or ED.

Term

Professional Indemnity Insurance is required for a period of six (6) years (being the time limit for institution of legal proceedings under the **Statute of Limitations**) after completion of the consultancy, as any problems and subsequent liability may not be discovered until well after the completion of the task.

3.2 Public Liability Insurance

Public Liability Insurance for an amount of \$10 million is **mandatory** for all consultancies. It covers the consultant's legal liability to pay compensation in respect of personal injury (including death) and/or damage to property, not only for the department and its officers, but also for third parties.

Procedures

Step 1: IDENTIFY AND DEMONSTRATE THE NEED FOR A CONSULTANT

When the need for engaging a consultant is identified, a strong argument and justification must be made before the process begins. The following should be considered.

- Check that the anticipated benefits of the consultancy outweigh the full cost.
- Can you link the consultancy to desired Government or departmental outcomes?
- Consider alternatives other than engaging a consultant.
- Clearly define and justify the reasons for the engagement.

The justification must be clearly documented and approved by the relevant DDG, ADG, ED, RD or GM. This may be in the form of a requisition (if the cost of the agreement is known) or as an office memorandum. Approved documentation must be forwarded to the relevant

Purchasing Officer **before** the Invitation to Offer (ITO) documents are forwarded to potential consultants.

1.1 Reasons for Engagement

Approval to engage a consultant should only be given if the authorised officer is satisfied that the work is essential and that the following aspects have been considered when determining need:

- the skills, expertise or resources are not available internally or within the timeframe required;
- objectivity, independence, impartiality or a fresh perspective are required;
- anticipated benefits of the consultancy outweigh the full cost;
- the desired outcome links to Government policy or a departmental initiative;
- the engagement is for a specific task(s), i.e., it is not open ended.

NOTE: No consultancy should be justified merely as an extension of previous work undertaken.

2.1 Cost Considerations

The following aspects should be taken into account when assessing cost:

- direct costs (fees and expenses) of the consultant to be met by the department;
- administrative costs involved in Specification or Terms of Reference preparation, offer evaluation, agreement negotiation and project evaluation;
- costs of departmental staff required to assist or manage the agreement;
- total fees and expenses (travel, accommodation, etc) to be met by the department;
- overhead costs of the department (including use of departmental facilities).

NOTE: When assessing expenses, the standard daily rates applicable to public servants for meals and accommodation can be used as an appropriate benchmark.

Step 2: SPECIFYING THE REQUIREMENTS

It is critical that a clear specification is developed, so that both the department and the consultant know precisely what is expected of each party. The specification serves as a planning and control mechanism for the project. It is also a standard against which to measure whether the consultant has achieved the required results. The specification should include a copy of the conditions under which the consultant will be engaged. This document must be completed with due care and attention, as this is the area around which most disputes revolve.

The specification is to be prepared by the Project Officer (or the officer requiring the consultancy) and should be forwarded to the relevant Purchasing Officer. The officer(s)

requiring the consultancy and the Purchasing Officer should both agree on and approve the final document **before** inviting offers.

Specification or Terms of Reference

The following headings should be considered for inclusion in the Specification or Terms of Reference in each case:

- Purpose and Objective(s) of the Project
- Outcomes of the Project
- Timeframe / Milestones
- Resources to be Allocated to the Project
- Ownership of Intellectual Property, Disclosure and Use of Information
- Conflict of Interest
- Insurance Details
- Reporting Requirements
- Details of Consultant's Costing

Practical assistance in Specification development can be located within the Better Purchasing Guides: [Developing Specifications for Purchasing](#) and [Engaging and Managing Consultants](#).

Step 3: SELECTING THE CONSULTANT

An appropriately certified (Level 2 and above) Purchasing Officer must either undertake all of the procurement process, or be a major stakeholder in the selection process.

3.1 Inviting Offers from Consultants

The ITO or quotation request must clearly cover a discrete project and not bind the department to the selected consultant for additional work outside that being considered. The project must not be artificially 'split' to enable the total project cost to be kept below specific departmental expenditure approval levels. **Open-ended agreements are not permitted.** Refer to [Corporate Standard AS.12.002](#) Section 5 for assistance with the ITO process. Additional information may also be located within the Better Purchasing Guide: [Inviting Offers](#).

The Purchasing Officer is responsible for coordinating ITOs for the consultancy service and should refer to the process outlined below where applicable to the consultancy value.

NOTE: All \$ levels quoted within this Standard are to be taken as inclusive of the Goods and Services Tax (GST).

For **consultancies valued up to \$20,000**, competitive offers are not necessary; however, the selection of a consultant must represent value for money. Any offer must be obtained in writing through a written Project Brief or Specification. A **short form agreement** must be completed, along with a Requisition for Goods and Services.

For **consultancies valued between \$20,000 and \$100,000**, an Invitation to Offer (ITO) must be submitted to a minimum of three (3) consultants who are genuine competitors in the particular field and are known to be capable of performing the consultancy at competitive rates. Public advertisement is **optional** at this level. It may however be the best way to research the market place in order to achieve maximum value for money. A **standard consultancy agreement** must be completed, along with a Requisition for Goods and Services.

For **consultancies exceeding \$100,000**, it is recommended that an ITO be publicly advertised. If it is decided not to publicly advertise ITOs at this level, this decision must be supported by sufficient market research. *CorporateLink* Procurement Services is DPI&F's service provider for administering the ITO process and should be utilised wherever possible. Where *CorporateLink* is not utilised to administer the ITO process, an appropriately certified departmental Purchasing Officer (Level 3 or above) **MUST** coordinate/be involved in the ITO process. A **standard consultancy agreement** must be completed, along with a Requisition for Goods and Services.

3.2 Exceptions

Exceptions to the above requirements apply when:

- accessing standing offer and/or preferred supplier arrangements or;
- pursuing the second (or subsequent) phase of a multistage procurement process (e.g. an ITO following a Request for Information (RFI)) or;
- the consultancy is to be undertaken by a Commonwealth / State / Territory / Local Government / Joint Government Agency (provided the agency is not an enterprise in competition with private enterprises) or;
- the DG, DDG or ADG approves a departure from the competitive purchasing process for consultants, but appropriate contractual documentation must still be completed appropriate to the level of expenditure as above.

3.3 Documentation Required

Refer to [Corporate Standard AS.12.002](#) Section 5 – The Invitation to Offer Process for guidance and detailed information.

3.4 Evaluation of Offers

The Project Officer responsible for engaging the consultant is responsible for the formation of an evaluation panel to undertake the comparative evaluation of all proposals against the evaluation criteria specified in the ITO document. Detailed guidance is available from [Corporate Standard AS.12.002](#) and the Better Purchasing Guide: [Evaluating Offers in Purchasing](#).

Where a Government-owned business (GOC), or commercialised business unit of an agency has submitted an offer in competition with private enterprise, a certificate of [competitive neutrality](#) must be provided.

3.5 Unsuccessful Offerors

Unsuccessful offerors are to be informed in writing by the Purchasing Officer within five (5) working days from the date the agreement is signed. All unsuccessful offerors should be offered the opportunity for feedback on their bid.

3.6 Payment

Payment for services must be recorded in the appropriate general ledger consultancy account code.

Step 4: ENGAGE AND MANAGE THE CONSULTANT

4.1 Documenting the Agreement

Following approval by the Authorised Officer to engage a consultant and **prior** to the commencement of the consultancy, the appropriate **formal agreement** (as referenced within Section 3.1 of this document), **must be prepared**. Use of the appropriate consultancy agreement is optional only under the following circumstances:

- the consultant is engaged under a current Standing Offer Arrangement;
- a variation to the standard consultancy agreement is sought by either party.

Any variation to the standard consultancy agreement requires the approval of Legal section.

A direction to commence (verbal or written), or purchase order must not be given to the successful consultant until after the Authorised Officer has signed the appropriate consultancy agreement.

4.2 Managing the Consultancy

Typical steps to ensure effective management of consultants include:

- appointing a Project Officer (or in some cases a steering committee). with a clearly defined responsibility for the management of the consultancy service;
- specifying and communicating the requirements for reports, meetings and target dates for the consultant;
- maintaining adequate records and undertaking a formal evaluation of the work of the consultant and retaining for future reference.

Good management of the consultancy service is essential to ensure that:

- contractual obligations are met and cost overruns are avoided;
- the department achieves the defined outcome(s);
- unnecessary delays are avoided to ensure a timely, quality outcome;
- disputes can be settled easily without litigation.

4.3 Variations

The terms and conditions for making or accepting any variation to the agreement are defined within the consultancy agreement. An **Authorised Officer** must approve any variations to the scope, term or remuneration rates of the consultancy with any subsequent expenditure variation to be approved by an appropriate financial delegate and a purchase order amendment generated. The **Project Officer** can approve variations **within** the scope of the Specification or Terms of Reference.

All approvals for variations must be in writing.

4.4 Retention of Documents

All offer documents, recommendations and approvals relating to individual consultancy projects are to be retained with the requisition and purchase order by the relevant Purchasing Officer for a period of two (2) years after the financial year to which the record relates. This official documentation is required to meet audit and management requirements.

The **original** copies of all Consultancy Agreements must be retained by Legal for a period of seven (7) years after the completion date of the project.

Original Consultancy Agreement documents **must not** be attached to individual project files.

Step 5: EVALUATE THE RESULTS

5.1 Evaluating the Consultant's Performance

The project officer is required to complete a written report that evaluates the consultant's performance. This should be carried out for all consultancies prior to final payment to ensure all requirements have been met within the specifications of the agreement. Comparing the final results to the outlined objectives may assist in assessing performance. When the outcomes have been achieved performance may be assessed as satisfactory. Performance criteria should be documented within the agreement so that the project officer is able to clearly measure progress. It is advisable to define regular performance checks within the specification so as to avoid unnecessary delays to work performed.

5.2 Performance Report for Consultancies Exceeding \$20,000

Where the value of a consultancy service exceeds \$20,000, a [Performance Report \(Form FDU 1082\)](#) must be completed by the Project Officer at the completion of the consultancy agreement and usually before final payment is approved. Evaluation of consultancy service projects is essential in determining whether the project objectives have been achieved, whether the use of contracted assistance was justified and whether the consultant's performance would justify re-engagement of that consultant on any future occasion.

While the strict confidentiality of evaluations is essential, any unfavourable report should be discussed with the consultants concerned and they should be aware that the record will be retained. Unsatisfactory issues or occurrences should be documented during the consultancy.

The Performance Report is to be forwarded to CorporateLink Finance who will update the Consultancy Register.

Step 6: RECORD AND REPORT

All performance reports on consultants should be in writing and kept on a central register at CorporateLink Finance. These evaluations can then be used when considering the consultant for future work and to assist other officers or agencies when considering the consultant for similar projects.

6.1 Maintenance of a Consultancy Register

The maintenance of the central [Consultancy Register – Form FDU1209](#) is the responsibility of the Nominated Officer in each Business Group or Region. Nominated Officers must ensure that only relevant and appropriate expenditure is charged to the consultancy account codes.

The central Consultancy Register for the department is maintained in CorporateLink Finance. This Unit is responsible for collating monthly returns from all Nominated Officers throughout the financial year to ensure accurate and comprehensive reconciliations and annual reporting is achieved.

Monthly returns are to be presented using the [Consultancy Register Monthly Reconciliation \(Form FDU 1113\)](#).

Entries in the Consultancies Register must be balanced with the General Ledger entries against the consultancy account code (521301) as obtained from the Finance system. (Should difficulties be encountered in obtaining relevant reports, contact the responsible Finance Officer, CorporateLink on 3239 3623)

Each entry on the report must relate to an entry in the Consultancy Register. For entries that do not relate to a consultancy service, or conversely entries that have been posted to another account code, an adjusting journal voucher must be prepared. When all adjustments have been made, each printout must be signed and dated by the Nominated Officer and forwarded to the responsible Finance Officer, CorporateLink by the 21st day of the current month.

6.2 Annual Financial Reporting

Annual reporting of expenditure on consultancy services is broken down under six categories (see [Appendix A](#) for further details):

- Management
- Human Resource Management
- Information Technology
- Communications
- Financial/Accounting
- Professional/Technical

CorporateLink Finance is to provide the consolidated, categorised information to the Manager (Administration) for inclusion in the Departmental Annual Report in accordance with agreed timelines.

Appendices

Appendix A
Appendix B

[Categories of Consultants for Annual Reporting](#)
[Decision Table – Consultant/Independent Contractor/Contracted Employee](#)

Contact: Principal Consultant, Strategic Procurement 323 93060

File Number: COR/405/000(566)

[Queensland Governments State Purchasing Policy](#)

References: Corporate Standard AS.12.002 Procurement Procedures;

Corporate Standard AS.12.006 Procurement and Management of Contractors

[Queensland Purchasing: Better Purchasing Guides - Engaging and Managing Consultants](#)
and [Revised Definition for Consultants and Contractors](#)

Amendment Status:

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Approved by:L Lamb.....**Date:** 14/2/2007
Assistant Director-General, Corporate Capability

CATEGORIES OF CONSULTANCY SERVICES

FOR ANNUAL REPORTING

1. MANAGEMENT

- 1.1 Corporate/strategic planning
- 1.2 Business strategies/plans
- 1.3 Program evaluation
- 1.4 Organisation development and change
- 1.5 Project management
- 1.6 Property/asset management
- 1.7 Management review/improvement
- 1.8 Other

2. HUMAN RESOURCES MANAGEMENT

- 2.1 Human resources systems management
- 2.2 Performance management, planning and evaluation
- 2.3 Staff development/training
- 2.4 Occupational health and safety
- 2.5 Equal employment opportunity
- 2.6 Executive search
- 2.7 General recruitment and selection
- 2.8 Industrial relations
- 2.9 Job Evaluation
- 2.10 Other

3. INFORMATION TECHNOLOGY

- 3.1 System planning and design
- 3.2 Software development and maintenance
- 3.3 Hardware specification, purchase and commissioning
- 3.4 System security
- 3.5 Training
- 3.6 Audit and review
- 3.7 Other

4. COMMUNICATIONS

- 4.1 Marketing
- 4.2 Statistical research
- 4.3 Public Relations
- 4.4 Media advertising
- 4.5 Other

5. FINANCE/ACCOUNTING

- 5.1 Financial analysis
- 5.2 Auditing
- 5.3 Financial systems
- 5.4 Accounting systems development
- 5.5 Inventory management
- 5.6 Economic analysis/planning/ forecasting
- 5.7 Investment strategies
- 5.8 Others

6. PROFESSIONAL/TECHNICAL

- 6.1 Engineering
- 6.2 Architecture
- 6.3 Scientific
- 6.4 Environmental
- 6.5 Surveying
- 6.6 Quantity surveying
- 6.7 Town planning
- 6.8 Legal
- 6.9 Medical
- 6.10 Valuation
- 6.11 Agriculture
- 6.12 Education
- 6.13 Other

DECISION TABLE

To Assist In Differentiating Between Consultants, Contractors and Employees

CONSULTANCY ASSESSMENT CRITERIA	DECISION	ACTION
1. Provides expert knowledge to analyse information, draw conclusions and make recommendations in the form of a written report, or an intellectual product for future action which the department must decide upon, or take a certain course of action.	YES/NO	Where the answer is YES to ALL FIVE (5) criteria, the engagement is considered a Consultancy and this standard applies.
2. The nature of the output is not necessarily predictable, but tends to be open-ended and is more complex (for example a range of recommendations which the department must consider).	YES/NO	Where the answer is NO to ANY ONE (1) question, the engagement is likely to be a contract for services and AS.12.006 would apply. For further clarification, refer to Contractor Assessment Criteria below.
3. Development of a new concept or process and where the department requires critical judgement to consider the recommended course of action.	YES/NO	Sometimes the distinction between a consultant and a professional contractor can be difficult to make and in some instances there may be 'grey areas'. Strategic Procurement can assist officers to make the correct determination by telephoning 323 96730
4. Engaged for a fixed period of time at an agreed rate of payment.	YES/NO	
5. Work which is not directly supervised by the department.	YES/NO	
CONTRACTOR ASSESSMENT CRITERIA	DECISION	ACTION
1. Is the person engaged through an established business/company	YES/NO	Where the answer is YES to ANY ONE (1) of the criteria, the engagement is considered as a contractor. Taxation and superannuation requirements do not apply .
2. Is the person engaged in his/her capacity as a partner in a business partnership	YES/NO	
3. Is the person engaged in his/her capacity as a trustee of a Trust	YES/NO	Where the answer is NO to ALL THREE (3) criteria, the engagement may be as an employee. Refer Employee Checklist below.
EMPLOYEE CHECKLIST	DECISION	ACTION
1. Work to be performed personally by the person	YES/NO	Where the answer is YES to POINTS 1 and 2 and ANY ONE (1) of the other 3 points , the engagement is regarded as an employee.
2. The department has direct control over how, when, where and what work is performed	YES/NO	
3. The department provides floor space, power, telephone, etc to assist the person in performing the work	YES/NO	Taxation and superannuation requirements must be met and payment arranged through SAPHR using Form FDU 804 .
4. The person is paid on a regular / periodic basis	YES/NO	Assistance with this process may be obtained from Legal, Corporate Capability.
5. The department accepts responsibility for losses caused by poor workmanship	YES/NO	